

TO BE RESCINDED

5160-33-03 **Eligibility for the assisted living home and community based services (HCBS) waiver program.**

- (A) The purpose of this rule is to outline the requirements that must be met for an individual to be eligible to enroll in the assisted living HCBS waiver.
- (B) To be eligible for the assisted living program, an individual must meet all of the following requirements:
- (1) The individual must have an intermediate or skilled level of care in accordance with rule 5160-3-08 of the Administrative Code.
 - (2) If the individual requires skilled nursing care beyond supervision of special diets, application of dressings, or administration of medication, it must be provided in accordance with rule 3701-17-59.1 of the Administrative Code.
 - (3) At the time of enrollment, and while receiving assisted living HCBS services, the individual must reside in an approved living unit in a licensed residential care facility (RCF) certified by the Ohio department of aging (ODA) that possesses the home and community-based setting characteristics set forth in rule 5160-44-01 of the Administrative Code, including:
 - (a) A residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility;
 - (b) A county or district home licensed as a residential care facility.
 - (4) The individual must participate in the development of a person-centered services plan in accordance with the process and requirements set forth in rule 5160-44-02 of the Administrative Code.
 - (5) The individual must have been determined eligible for medicaid in accordance with rules 5160:1-1 to 5160:1-5 of the Administrative Code.
 - (6) The cost of the twelve-month service plan does not exceed the cost limit in effect for the program that is based on the maximum per-diem rate for assisted living services plus the maximum amount authorized for community transition services.

- (7) The individual must have the ability to make room and board payments calculated at the current supplemental security income (SSI) federal benefit level minus fifty dollars.
 - (8) The individual is age twenty-one or older at the time of enrollment.
 - (9) The assisted living HCBS waiver has not reached the centers for medicare and medicaid services (CMS) authorized limit of participants for the current year.
 - (10) The individual's health related needs, as determined by ODA's designee, can be safely met while residing in a setting described in paragraph (B)(3) of this rule.
- (C) Providers shall not charge or collect room and board payments from individuals in excess of the room and board payment calculated in paragraph (B)(7) of this rule.
- (D) If, at any time, the individual fails or ceases to meet any of the eligibility requirements identified in this rule, the individual shall be denied or disenrolled from the assisted living HCBS waiver. In such instances, the individual shall be notified of his or her hearing rights in accordance with division 5101:6 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 7/9/2019

Certification

Date

Promulgated Under: 119.03

Statutory Authority: 5166.02

Rule Amplifies: 173.54

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